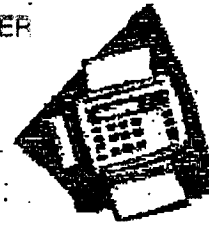


RECEIVED
CENTRAL FAX CENTER

MAR 10 2014



Fax



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TTAB

Date: 03/09/2014

Subject: PROOF OF SERVICE

Company: TRADEMARK TRIAL & APPEAL BOARD

Contact: Andrew P. Baxley

Fax Number: (571) 273-8300

Total # of pages (include fax cover sheet): 10

From: Albert Patterson

Phone Number: (414) 412-6351

FAX MARCH 9, 2014 CANCELLATION NO. 92057838
Albert Patterson

Comments: WORLD WRESTLING ENTERTAINMENT, INC.

Andrew P. Baxley Interlocutory

Attorney; CANCELLATION NO.

92057838 TRADEMARK RULES

2.119(C) AND 2.127(CA) PROOF OF
SERVICE TO ATTORNEY (CHRISTOPHER
M. VERDINI, K&L GATERTH, K&L CENTER,

DELIVERY DATE: 03-11-2014



03-10-2014



*Taking Care
of Business*

RECEIVED
CENTRAL FAX CENTER

MAR 10 2014

Store:

Office Depot Store 02881
Copy and Print
6433 W. FOND DU LAC AVENUE
MILWAUKEE, WI 53216
4148715000

Customer Information:

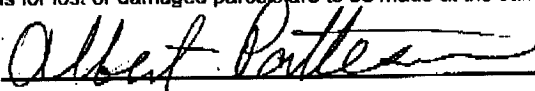
Albert Patterson
Albert Patterson
3840 n sherman blvd
MILWAUKEE, WI 53206
Telephone: 4148715000

Employee: od02881

Ship Date: 03/09/2014

SKU	Description	Price	Recipient Information
	Priority Mail Flat Rate Envelope	\$8.50	KandL LLP
	Insured Value Fee:	\$0.00	Christopher M Verdini
	Delivery Confirmation	\$0.00	210 sixth avenue
	Signature Confirmation	\$0.00	PITT, PA, 15222, US
	Insured Value: \$ 0.00		
	Contents: Other : Legal Document		
	Tracking #:		
	9410810200882110223932	Weight: 1.00 LBS Dim: 11.00 in. x 8.00 in. x 11.00 in.	
	Delivery Date: 3/11/2014	* Weight entered manually	
			Total \$8.50

- I understand that Office Depot is not liable for packages improperly packed.
- I understand that Office Depot will not ship any hazardous materials, as designated by the Department of Transportation, or any other materials restricted by UPS or US Post Office rules. Please see an Office Depot associate if you have any item in question.
- I represent that my description of the materials I am shipping is accurate.
- Packing guidelines and Restricted Items are available at the Copy & Print Depot counter.
- I have declared a value for my package and paid for insurance if optioned.
- To ensure your packages are shipped your receipt must be validated by a cashier at the time of purchase. The validated copy will be retained by the cashier.
- Please retain this receipt as proof of shipment in the event a claim needs to be filed with UPS or USPS.
- USPS claims are to be made by the shipper directly to a local USPS office or through their website www.usps.com
- UPS claims for lost or damaged parcels are to be made at the same Office Depot location the parcels were shipped from.


Customer Signature

**IMPORTANT INFORMATION REGARDING
PACKING SHIPPING PROGRAM**

UPS - Your package can be tracked online at www.ups.com
USPS - Your package can be tracked online at www.usps.com only if you purchased this additional service.

Sunday, March 9, 2014 1:48:35 pm

RC, MARCH 08 2014

RECEIVED
CENTRAL FAX CENTER

MAR 10 2014

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: March 5, 2014

Cancellation No. 92057838

Albert Patterson

v.

World Wrestling Entertainment,
Inc.

Andrew P. Baxley, Interlocutory Attorney:

In a December 4, 2013 order, the Board granted as conceded respondent's motion to dismiss for failure to state a claim and for entry of summary judgment on the ground of *res judicata*. See Trademark Rule 2.127(a).

On December 18, 2013, petitioner filed a submission which the Board construes as a motion to vacate entry of judgment under Fed. R. Civ. P. 60(b). No response to that motion is of record.

Although the motion includes the addresses of respondent and a partial address of respondent's attorney, the motion does not include acceptable proof of service upon respondent. See Trademark Rule 2.119(a). In particular, the motion does not state the date and manner of service and the address to which service was made.¹ "Proof of such

¹ Respondent's attorney's address (Christopher M. Verdini, K&L Gates LLP, K&L Gates Center, 210 Sixth Avenue, Pittsburgh, PA

Cancellation No. 92057838

service must be made before the [motion] will be considered by the [Board]." Id. Petitioner is allowed until fifteen days from the mailing date set forth in this order to file with the Board proof of service of his motion, failing which that motion will receive no consideration.

Further briefing of that motion is due in accordance with Trademark Rules 2.119(c) and 2.127(a).

15222) is respondent's correspondence address of record. The address for respondent's attorney that is set forth in the motion is incomplete. Accordingly, service to that incomplete address is insufficient. Moreover, service directly upon respondent is insufficient because it is not respondent's correspondence address of record.

MEMORANDUM

RECEIVED

CENTRAL FAX CENTER

February 26, 2014

Attn: Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

(CONTENTS)
Motion to Review

MAR 10 2014

To whom it may Concern,

Reason: WWE Superstars, and WWF Superstars not barred by res judicata, WWE, and World Wrestling Entertainment are not barred by judicial estoppel. Therefore the above names are not protected by res judicata.

Exhibit 1(true copies)

- The "WWF INC." filed a certificate of amendment, changing its name form "WWF INC." to "Titan Sports INC." on January 12th 1988 at 9:01.
- The "Titan Sports INC." filed a certificate of amendment, changing its name to "World Wrestling Federation Entertainment INC." on July 29th 1999 at 9am.
- "World Wrestling Federation Entertainment INC." filed a certificate of amendment, changing its name to "World Wrestling Entertainment INC." on June 14th 2002 at 8 am.
- "World Wrestling Entertainment" is the last known title of record of the aforesaid corporation.
- "Superstars of Wrestling", "Superstar of Wrestling" and "Superstars of pro Wrestling" in conjunction with wrestling activities in the United States and permitting plaintiff(World Wrestling Association, successor to United Wrestling Associations d/b/a U.W.A.) to use the said names in connection with wrestling activities. (Accepted and signed by Albert Patterson on Nov. 25th 1992). Defendants (Titan Sports INC.) attorney Charles P. Graupner also signed documents filed on Nov. 25th 1992 by the courts.
- It is further ordered that and adjudged that the defendant Titan Sports INC. is permanently enjoined from using the names "Superstars of Wrestling", "Superstar Wrestling" and "Superstars Pro Wrestling" in connection with wrestling activities in the United States, and that plaintiffs Louis Jones and World Wrestling Association, successor to United Wrestling Association d/b/a/U.W.A. Superstar Wrestling are permitted to use said names in connection with wrestling activities. This judgment does not include any party from using the term "superstars".

Exhibit 2 (true copies)

- Titan Sports INC. First use was on July 1 1979. Service mark WWF was registered on Jan. 27 1998, then was cancelled on Jan. 9th 2003(reg. # 2131847)
- WWF was registered on Jan. 23rd 1990, then was cancelled on July 29th 1996 (reg. # 1579498)

Exhibit 3 (true copies)

- World Wrestling Association (W.W.A.) INC. Is a domestic corporation organized under the laws of this and that its date of incorporation is June 24th 1988. (on July 1st 1991 an official seal was placed on the document in Madison by the secretary of state)

- Non- surviving merging Wisconsin corporation is United Wrestling Association INC, the name of the surviving Wisconsin corporation is World Wrestling Association (W.W.A) INC. Executed by the surviving corporation on behalf of all parties to the merger on 6th 1991.
- Name of surviving corporation (Before any amendment): World Wrestling Association, (W.W.A.) INC
- The name and service mark infringement of the plaintiff's names and marks Superstar of Wrestling, Superstars of Wrestling and Superstars of Pro Wrestling in violation of the state and federal law. According to the stipulated facts, the plaintiff adopted these marks in 1979 and used them in interstate commerce to advertise and promote professional wrestling matches. The plaintiff filed for chapter 7 bankruptcy protection in 1984, in 1986, the defendant adopted and commenced use of the Superstars of Wrestling mark to promote.
- The plaintiffs are the World Wrestling Association and its trustee in bankruptcy. In recounting the facts of this case, the court will refer only to the World Wrestling Association, the successor to the corporation (United Wrestling Association) which actually used the marks at issue. (Signed Sept. 4th 1992 by Thomas J. Curran, United States District Judge).

Exhibit 4(true copies)

- Application status: cancelled-section 7(D), filing date was Sept. 25th 1995
- Status date: Mar. 30th 2000 (cancelled)
- Mark: WWF Superstars (reg. # 1819240) (reg. Feb. 1st 1994)
- Application status: section 8 and 15- accepted and acknowledge
- Mark Superstars of Wrestling

Exhibit 5(true copies)

- WWA Superstars of Wrestling flyer
- WWA owner (registrant) Patterson, Albert DBA WWA Superstars of Wrestling
- Word mark Superstars of Wrestling SW
- Goods and services: television programs
- Distinctiveness Limitation Statement: Superstars of Wrestling

Exhibit 6(true copies)

- Judgment in a civil case, marks: World Wrestling Association, WWA Superstar Wrestling, approved Aug. 31st 2005 by Katina Hubacz (deputy clerk)

Exhibit 7(true copies)

- Appeal file on Jan. 8th 2010

- Plaintiff-Appellant's motion to dismiss appeal, by and through counsel, Charles Drake Boutwell, states that the parties have resolved the appeal by settlement agreement and moves pursuant to Fed. R. App P. 42(b) that the court dismiss the appeal with prejudice with each side to bear its own costs. (filed Jan. 8th 2010)
- Albert Patterson's infringement claims against the defendants based on their use of WWF Superstars and WWE Superstars are not barred by res judicata
- Albert Patterson's infringement claims against the defendants based on their use of WWE and World Wrestling Entertainment are not barred by judicial estoppel. Dated on Aug. 21st 2006, Sofron B. Nedilsky (clerk), Linda M. Zik (deputy clerk) and Rudolph T. Randa (chief judge)

Exhibit 8(true copies)

- Powerflix.com(Anthology Box Sets)
 - WWF Superstars from 1986 thru 1997
 - WWE Superstars from 2009 thru 2011

Exhibit 9(true copies)

- WWE Reports 2011 Fourth Quarter and Full Year Results
- Company worth and assets listed

In Closing,

Patterson has interest and claims in the following marks used in his business: World Wrestling Association, W.W.A, World Wrestling Association Superstars, W.W.A. Superstars, Superstar Wrestling, Superstars of Wrestling, Superstars of Pro Wrestling, W.W.A. Superstar Wrestling, W.W.A. Superstars Wrestling and W.W.A. Superstars of Pro Wrestling.

In addition to the recent confirmation of the efficacy of Patterson's SUPERSTARS OF WRESTLING registered mark, His business currently holds court injunction against Andrew McManus(principally relating to WORLD WRESTLING ASSOCIATION and WWA) and Dale Gagner relating to the above referenced marks obtained in different court actions. Patterson also holds an Injunction against the WWF and its successors for SUPERSTAR WRESTLING, SUPERSTARS OF WRESTLING and SUPERSTARS OF PRO WRESTLING.

DECLARATION OF ALBERT PATTERSON

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both under 18 USC 1001 and that such willful false statements may jeopardize the validity of the Declaration or any registration resulting therefrom.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the motion of defendants World Wrestling Entertainment, Inc. and Good Humor Corporation for summary judgment dismissing Albert Patterson's complaint is GRANTED.

Albert Patterson's infringement claims against the defendants based on their use of "WWF" and "World Wrestling Federation" are barred by res judicata.

X X **Albert Patterson's infringement claims against the defendants based on their use of "WWF Superstars" and "WWE Superstars" are not barred by res judicata.** X X

X X **Albert Patterson's infringement claims against the defendants based on their use of "WWE" and "World Wrestling Entertainment" are not barred by judicial estoppel.** X X

Albert Patterson's infringement claims against the defendants based on their use of "World Wrestling Federation," "WWF," and "WWF Superstars" are barred by laches.

Albert Patterson's claims arising out of the defendants' wrestling business's use of "WWF," "World Wrestling Federation," and "WWF Superstars" marks are barred by laches.

Albert Patterson's claims are fundamentally inconsistent with both resolution of the 1990 action and his course of conduct over the past 20 years. Summary judgment dismissing Albert Patterson's Lanham Act claims is granted. Albert Patterson has not proffered any admissible evidence of actual confusion.

Count Four, which alleges that the defendants misappropriated Albert Patterson's unique method of advertising involving Albert Patterson's selection and promotion of a collection of wrestlers each possessing a unique persona, fails as a matter of law.

The Court's determination that the defendants are entitled to summary judgment dismissing Albert Patterson's Lanham Act trademark infringement claims is likewise dispositive of Albert Patterson's state statutory claim. Therefore, Albert Patterson's fifth claim for state law trademark infringement is dismissed.

World Wrestling Entertainment, Inc.'s motion to voluntarily withdraw its counterclaims without prejudice is granted. World Wrestling Entertainment, Inc. may reinstate its counterclaims in the event Albert Peterson is successful in any appeal of this action.

Albert Peterson's motion seeking sanctions against World Wrestling Entertainment, Inc. and for reconsideration of the Court's order imposing sanctions is denied.

The defendants' are awarded attorney's fees and costs in the amount of \$41,210.56 which shall be paid to the defendants no later than September 5, 2006.

The defendants' supplemental petition for attorney's fees and costs is granted in the amount of \$10,097.91. Albert Patterson shall pay such amount to the defendants no later than September 5, 2006.

This action is hereby DISMISSED.

August 21, 2006
Date

SOFRON B. NEDILSKY
Clerk

s/ Linda M. Zik
(By) Deputy Clerk

Approved as to form:

s/ Rudolph T. Randa
Hon. Rudolph T. Randa, Chief Judge

August 21, 2006
Date